

202 KAR 1:010. Uniform grievance procedure for children with an emotional disability.

RELATES TO: KRS 200.505

STATUTORY AUTHORITY: KRS 200.505

NECESSITY, FUNCTION, AND CONFORMITY: This administrative regulation defines the "uniform grievance procedure" to be used by the Regional Interagency Councils for Children with an Emotional Disability and the State Interagency Council for Services to Children with an Emotional Disability.

Section 1. Definitions. (1) "Appeal" means a formal request to SIAC to review the disposition of a grievance by a RIAC.

(2) "Complainant" means any of the following persons who may initiate a grievance with the RIAC:

- (a) A nominated child age sixteen (16) or older;
- (b) A nominated child's parent; or
- (c) An adult who has been authorized in writing as a representative for the purposes of initiating a grievance by one (1) of the persons listed above or by a nominated child under the age of sixteen (16).

(3) "Grievance" means a formal request for reconsideration of a decision made by an interagency service planning team or a RIAC.

(4) "IFBSS" means Individualized Family Based Support Services.

(5) "Local resource coordinator" means chief staff person to the RIAC.

(6) "Nominated child" means a child who has been nominated for or who is receiving services under the auspices of a RIAC.

(7) "Parent" means the natural parent, adoptive parent, legal guardian, or other person exercising custodial control or supervision, including relatives and foster parents, with whom the child was living when the event over which the grievance is filed occurred.

(8) "RIAC" means Regional Interagency Council for Services to Children with an Emotional Disability.

(9) "SIAC" means State Interagency Council for Services to Children with an Emotional Disability.

Section 2. Grievance Notification Procedure. (1) A grievance may be filed by a complainant with a RIAC grievance form in the following circumstances:

- (a) A RIAC refers, defers, or denies a nomination;
- (b) The parent or nominated child over age sixteen (16) expresses disagreement with the interagency service plan; or
- (c) A RIAC denies or reduces an allocation of IFBSS to the nominated child and family.

(2) The local resource coordinator shall ensure that:

- (a) Adverse decisions of the RIAC are reviewed with parents of the nominated child;
- (b) Parents of the nominated child are notified of the grievance procedure if they disagree with the decision of the RIAC;
- (c) Attempts are made to informally resolve the grievance if appropriate;
- (d) Assistance is provided to a complainant who requests it with initiating the grievance procedure; and
- (e) The notification process is documented.

(3) Services to the nominated child and family shall continue while the grievance is pending. If the grievance concerns a reduction of IFBSS, the allocation of IFBSS shall be restored pending resolution of the grievance.

Section 3. Types of Grievances. The following are the two (2) types of grievances which may be filed with the RIAC.

(1) Grievances relating to the interagency service plan over which the RIAC has complete control.

(a) These grievances may be initiated regarding any matter relating to the interagency service plan created for a nominated child. However, grievances regarding aspects of a service plan over which one (1) of the agencies represented on the RIAC has complete control shall be initiated with that agency using that agency's grievance procedure.

(b) The service coordinator shall assist the complainant in reviewing the appropriate agency's grievance procedure and include a referral to the appropriate representative.

(2) Grievances regarding a decision by a RIAC to deny or reduce services to a nominated child and family. Grievances may be initiated regarding the following decisions of a RIAC:

(a) To defer, refer, or deny a nominated child for service coordination; or

(b) To reduce or deny IFBSS-funded services recommended for a nominated child and family by an interagency service planning team.

Section 4. Forms for Grievances. (1) Grievances may be initiated by using the standard form ("RIAC Grievance") or another written notice that includes the following information:

(a) The type of grievance ("interagency service plan" or "RIAC denial of services");

(b) A brief summary of the situation that has led to the grievance, including dates and personnel involved if possible;

(c) The signature of the person initiating the grievance;

(d) The relationship to the nominated child of the person who is initiating the grievance; and

(e) The date the grievance is signed.

(2) The written grievance shall be delivered or sent by first class mail to the chair of the RIAC. The grievance shall be marked with the date of receipt.

(3) A copy of the standard grievance form is incorporated by reference and may be inspected and obtained through the Chair, State Interagency Council for Services to Children with Emotional Disabilities, Department for Mental Health and Mental Retardation Services, 275 E. Main St., Frankfort, Kentucky 40621, Monday through Friday, 8 a.m. to 4:30 p.m.

Section 5. Inquiries Into Grievances. (1) Within two (2) weeks of receipt of a grievance, the chair of the RIAC shall appoint an individual to make an inquiry into the grievance. The person appointed for the inquiry may be a member of an agency which currently serves the child and family, but shall not have been involved in the formulation of the plan or the decision which the grievance concerns, or was involved with the direct supervision or delivery of services to the family.

(2) The inquiry shall include:

(a) A telephone or personal interview with the complainant;

(b) Telephone or personal interviews with the persons involved in decisions about the grievance and others with knowledge of the circumstances of the decision; and

(c) A review of documents which are associated with the grievance.

(3) The inquiry process may include negotiation of a proposed settlement of the grievance.

(4) At the conclusion of the inquiry, the person who made the inquiry shall request the chair of the RIAC to place the grievance on the agenda of the next regularly scheduled RIAC meeting.

(5) The inquiry shall last no longer than two (2) weeks from the date of receipt of the grievance by the RIAC chair.

(6) The complainant shall be informed of the recommendation of the person who made the inquiry when the request is made to place the grievance on the agenda of the RIAC.

Section 6. Consideration of the Grievance by the RIAC. (1) When the person appointed to con-

duct the inquiry advises the chair of the RIAC that the inquiry process has been completed, the chair of the RIAC shall schedule a presentation of the grievance and inquiry findings at the next regularly scheduled meeting of the RIAC, but no later than one (1) month following the conclusion of the inquiry.

(2) The following persons shall be invited to appear at the presentation:

(a) The person who conducted the inquiry;

(b) Those persons identified by the individual appointed to conduct the inquiry who may provide information that would be helpful in the reconsideration of the issue by the RIAC, or who may be affected by a reconsideration of the initial decision;

(c) The complainant and any authorized representative; and

(d) Persons whom the complainant wishes to be in attendance.

(3) At the meeting of the RIAC, a presentation shall be made by the persons attending regarding the grievance in the order listed above. The chair of the RIAC may set and enforce uniform time limits for presentations. If the complainant is absent from the presentation, the chair of the RIAC may postpone the presentation until no later than the next regularly scheduled meeting.

(4) At the conclusion of the presentation, the person who conducted the inquiry shall make recommendations to the RIAC regarding resolution of the grievance.

(5) If a settlement to the grievance is negotiated during the inquiry, only the person who conducted the inquiry and the complainant shall appear to report the settlement to the RIAC.

(6) All presentations to the RIAC regarding grievances, and discussion by the RIAC of the disposition, shall be audiotaped. Prior to the meeting, all parties to the grievance shall be advised that presentations and discussions will be audiotaped.

Section 7. Disposition of Grievances by the RIAC. (1) At the conclusion of the presentation, the RIAC shall vote to go into executive session to consider the grievance and then in open session make one (1) of the following decisions:

(a) The grievance is not one which the RIAC can resolve because it concerns a matter over which an agency represented on the RIAC has complete control. In this case, the chair may request the RIAC representative of that agency to assist in the resolution of the grievance;

(b) The original interagency service plan or RIAC decision stands;

(c) The previous decision to defer, refer, or deny the nomination of a child is set aside, and the child is accepted for service coordination;

(d) A new interagency service planning meeting shall be conducted, using new instructions or recommendations from the RIAC; or

(e) The previous denial or reduction of services by the RIAC is set aside, and new levels of service are established.

(2) The decision of the RIAC shall be summarized in a letter to the complainant, with copies to the authorized representative, if any, and the local resource coordinator. The letter shall be sent within two (2) weeks of the presentation of the grievance to the RIAC. The letter shall include information as to how the decision of the RIAC may be appealed to SIAC.

Section 8. Appeals to SIAC. The disposition of a grievance by a RIAC may be appealed to the SIAC.

(1) An appeal to the SIAC shall be made in writing to the State Coordinator of Kentucky IMPACT, c/o Department for Mental Health and Mental Retardation Services, 275 E. Main St., Frankfort, Kentucky 40621. A copy of the disposition letter from the RIAC chair shall be attached.

(2) The appeal to SIAC shall be initiated within two (2) weeks of the date of the letter from the RIAC chair about the disposition of the appeal.

(3) The appeal to SIAC shall only be initiated by the person who initiated the grievance with the

RIAC or by the authorized representative.

(4) Upon receipt of a letter appealing the RIAC disposition of a grievance, the state coordinator shall consult with the chair of the SIAC regarding the method for addressing the SIAC appeal.

(5) In all appeals of grievances to the SIAC, the SIAC chair shall appoint a SIAC member, a designee of a SIAC member, or staff to the SIAC to review documentation of the RIAC's disposition of the grievance and recommend a resolution of the appeal to a future meeting of the SIAC.

(6) If no recommendation for a resolution based on documentation can be made, the chair of the SIAC shall determine a method for further investigation and recommendation regarding the appeal including the following:

(a) The SIAC chair may appoint a SIAC member, designee of a SIAC member, or staff to the SIAC to make a personal inquiry into the grievance and make a recommendation to SIAC regarding resolution of the appeal; or

(b) The SIAC may hear a presentation by the RIAC and the complainant in a format established by the SIAC chair.

(7) The investigation and recommendation regarding the appeal to SIAC shall be completed within thirty (30) days of the receipt of the appeal.

Section 9. Disposition of Appeals by SIAC. (1) The SIAC shall be informed of all appeals, the methods chosen to address them, and the resolutions recommended for them. The SIAC may choose to resolve appeals in one (1) of the following ways:

(a) Recommend further inquiry or reconsideration by the RIAC;

(b) Permit the disposition by the RIAC of the grievance to stand as made; or

(c) Advise the RIAC to change the disposition of the grievance. If the RIAC is advised to change its disposition, the SIAC shall make recommendations and offer on-site technical assistance to the RIAC.

(2) The SIAC chair shall inform the complainant of the SIAC's disposition of the appeal by letter. Copies shall be sent to the complainant's authorized representative, if any; to the RIAC chair; and to the local resource coordinator. (19 Ky.R. 1464; Am. 1743; eff. 1-27-93.)